IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 6036 of 2004()

AGAINST THE ORDER IN IA.372/04 IN OS.108/2000
of M.C.,PARAPPANANGADI

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PETITIONER:

KLATHIL ISMAIL,
S/O.KALATHIL ALAVI,
KALATHIL HOUSE, PANAGATHUR DESOM,
PARIYAPURAM AMSOM, TIRUR TALUK.

BY ADV. SRI.S.V.BALAKRISHNA IYER

RESPONDENTS:

MOIDEENKUTTY, S/O.KALANKUNNATH HAMSA
HAJI, KALANKUNNATH HOUSE, PANANGATHUR AMSOM,
PARIYAPPURAM AMSOM, TIRUR TALUK.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.6036/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF AFFIDAVIT FILED IN SUPPORT OF IA.372/04 IN O.S.108/2000 BEFORE MUNSIFF, PARAPPANANGADI DT.12.2.04.

EXT.P2 – TRUE COPY OF NOTICE ISSUED BY ADV.COMMR. MR.K.P.CHANDRAN IN O.S.89/2000 AND 108/2000

EXT.P3 – AFFIDAVIT FILED BY ADV.MR.T.RAMANKUTTY MENON, APPEARING IN O.S. 108/2000 FOR PETR., DT.18.2.04.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.6036 OF 2004

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DATED THIS THE 25th JULY, 2007

J U D G M E N T

Service is not completed so far, though notice was ordered as far back as on 19.2.2004. It appears to me that the respondent is also not aggrieved by the order of stay passed by this Court in the Writ Petition which has been pending for more than 3 ½ years.

2. The grievance of the petitioner is that I.A.No.372 of 2004 which was a petition filed by the petitioner for removal of the suit from the list on the ground that the commission report and plan were pending with the commissioner pursuant to orders already passed by the court on remittance applications filed by both sides, was dismissed even without hearing the petitioner. Sri.T.Ramankutty Menon, Senior Member of the Parappanangadi Bar has sworn to an affidavit in which he has stated inter alia that it was without hearing him that the court below dismissed the I.A.

3. According to me, no useful purpose will be served from the point of view of either parties by keeping the Writ Petition pending on the files of this Court. I accept the affidavit (Ext.P3) filed by Sri.T.Ramankutty Menon and set aside the order passed by the court below in I.A.No.372 of 2004. The court below is directed to pass fresh

orders in I.A.No.372 of 2004 after hearing both sides, at the earliest and at any rate within one month of receiving copy of this judgment.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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